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Attorneys for Plaintiffs and Proposed Plaintiff Class

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

JANE DOE on behalf of herself and her minor child; JANE BOE, Sr. on behalf of herself and her minor child; JOHN COE, Sr. and JANE COE, Sr. on behalf of themselves and their minor children; JOHN FOE, Sr. on behalf of himself and his minor child; JANE GOE, Sr. on behalf of herself and her minor child; JANE LOE on behalf of herself and her medically fragile child; JANE JOE on behalf of herself and her medically fragile child; CHILDRENS HEALTH DEFENSE, and all others similarly situated,

Plaintiffs,

vs.

HOWARD ZUCKER, in his official capacity as Commissioner of Health for the State of New York; ELIZABETH RAUSCH-PHUNG, M.D., in her official capacity as Director of the Bureau of Immunizations at the New York State Department of Health; the NEW YORK STATE DEPARTMENT OF HEALTH; THREE VILLAGE CENTRAL SCHOOL

Case No.: 1:20-CV-0840 (BKS/CFH)

**ATTORNEY AFFIRMATION IN
SUPPORT OF MOTION FOR LEAVE
TO PROCEED BY PSEUDONYM AND
FOR PROTECTIVE ORDER**

ATTORNEY AFFIRMATION IN SUPPORT OF MOTION FOR LEAVE TO PROCEED BY PSEUDONYM AND FOR PROTECTIVE ORDER - 1

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3 DISTRICT; CHERYL PEDISICH, acting in
4 her official capacity as Superintendent, Three
5 Village Central School District; CORINNE
6 KEANE, acting in her official capacity as
7 Principal, Paul J. Gelinis Jr. High School,
8 Three Village Central School District;
9 LANSING CENTRAL SCHOOL DISTRICT;
10 CHRIS PETTOGRASSO, acting in her
11 official capacity as Superintendent, Lansing
12 Central School District; CHRISTINE
13 REBERA, acting in her official capacity as
14 Principal, Lansing Middle School, Lansing
15 Central School District; LORRI
16 WHITEMAN, acting in her official capacity
17 as Principal, Lansing Elementary School,
18 Lansing Central School District; PENFIELD
19 CENTRAL SCHOOL DISTRICT; DR.
20 THOMAS PUTNAM, acting in his official
21 capacity as Superintendent, Penfield Central
22 School District; SOUTH HUNTINGTON
23 SCHOOL DISTRICT; DR. DAVID P.
24 BENNARDO, acting in his official capacity
25 as Superintendent, South Huntington School
26 District; BR. DAVID MIGLIORINO, acting
27 in his official capacity as Principal, St.
28 Anthony's High School, South Huntington
School District; ITHACA CITY SCHOOL
DISTRICT; DR. LUVELLE BROWN, acting
in his official capacity as Superintendent,
Ithaca City School District; SUSAN
ESCHBACH, acting in her official capacity
as Principal, Beverly J. Martin Elementary
School, Ithaca City School District;
SHENENDEHOWA CENTRAL SCHOOL
DISTRICT; DR. L. OLIVER ROBINSON,
acting in his official capacity as
Superintendent, Shenendehowa Central
School District; SEAN GNAT, acting in his
official capacity as Principal, Koda Middle

ATTORNEY AFFIRMATION IN SUPPORT OF MOTION FOR LEAVE TO PROCEED BY PSEUDONYM
AND FOR PROTECTIVE ORDER - 2

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3 School, Shenendehowa Central School
4 District; ANDREW HILLS, acting in his
5 official capacity as Principal, Arongen
6 Elementary School, Shenendehowa Central
7 School District; COXSACKIE-ATHENS
8 SCHOOL DISTRICT; RANDALL SQUIER,
9 Superintendent, acting in his official capacity
10 as Superintendent, Coxsackie-Athens School
11 District; FREYA MERCER, acting in her
12 official capacity as Principal, Coxsackie-
13 Athens High School, Coxsackie-Athens
14 School District; ALBANY CITY SCHOOL
15 DISTRICT; KAWEEEDA G. ADAMS, acting
16 in her official capacity as Superintendent,
17 Albany City School District; MICHAEL
18 PAOLINO, acting in his official capacity as
19 Principal, William S. Hackett Middle School,
20 Albany City School District; and all others
21 similarly situated

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23 SUJATA SIDHU GIBSON, being an attorney admitted to practice law before the courts of the State
24 of New York, and not being a party to the above entitled action, affirms the following to be true
25 under penalties of perjury:

- 26 1. I am an attorney of record in this lawsuit and represent the named plaintiffs above.
- 27 2. I have been in close contact with the families that are part of this suit.
- 28 3. With some exception, most of the families named fear the retaliation and emotional
trauma that their children will face if their medical records and immunization status
become public knowledge.

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30 ATTORNEY AFFIRMATION IN SUPPORT OF MOTION FOR LEAVE TO PROCEED BY PSEUDONYM
31 AND FOR PROTECTIVE ORDER - 3
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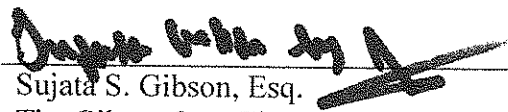
4. Many of these children are very sick and have worked hard to get to a point where their illness does not define them. They have been taunted and teased by their classmates, their self-esteem has suffered, and they have endured struggles and stigma because of their chronic health conditions.
5. Some of the children have sensitive symptoms that could lead to ridicule if their names became a matter of public knowledge on the internet, such as inflammatory bowel conditions, incontinence, and mental health challenges.
6. This lawsuit primarily seeks injunctive and declaratory relief to remedy ongoing alleged constitutional violations against the named plaintiffs and the thousands of other families in New York that are being similarly burdened by the practices, policies and procedures of the named defendants and their agents and unnamed counterparts.
7. Immunization status is a particularly emotionally charged issue. Children and families have been bullied online. I have even witnessed one instance where a state legislator gave the middle finger to a group of parents and their children who came to ask about the medical exemption and another where a state legislative aide told children they are carrying disease and had to get out of her office. When I accompanied families to the Board of Regents to discuss this issue, someone had put a sign on the water fountain saying that “unvaxxed” children could not use it. These instances all caused emotional distress to the children and families present.

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3 8. These children are medically fragile children whose medical providers agree should not
4 be immunized. They have endured enormous suffering and most of them have already
5 been stigmatized and traumatized by being excluded from participation in school.

6 9. The families named in this complaint would like to proceed by pseudonym to protect
7 their children's privacy.

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9 10. We have no objection to sharing the Doe Plaintiffs' identities with the defendants and the
10 defendants' counsel to ensure that they can fairly and adequately litigate their case.

11 RESPECTFULLY SUBMITTED this 22 day of July, 2020

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26 ATTORNEY AFFIRMATION IN SUPPORT OF MOTION FOR LEAVE TO PROCEED BY PSEUDONYM
27 AND FOR PROTECTIVE ORDER - 5
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